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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,940	10/17/2001	Sung-Koog Oh	5000-1-221	6290
33942	7590	08/12/2005	EXAMINER	
CHA & REITER, LLC 210 ROUTE 4 EAST STE 103 PARAMUS, NJ 07652			HOFFMANN, JOHN M	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,940

Applicant(s)

OH ET AL.

Examiner

John Hoffmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 July 2005 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Examiner could find no support for the newly claimed gas feeding port for supplying from one or more respective position. This is deemed to be a prima facie showing on failure to comply with the requirement. The burden is now on Applicant to show the requirement is complied with, or to amend the claims so that they comply.

Furthermore as reading the specification, one feeding port can only feed from one position – and not “more respective positions”.

Still further, there is no support for “delivery of the gas to the fiber”; the specification reasonably suggests that the gas is delivered to the preform (paragraph spanning pages 8-9 of the specification). This applies to both claims 13 and 18.

Claim 18: there is no support for the gas feeder – see the final rejection of 04/04/05 for further explanation.

Claim 18: there is no support for the apparatus being configured to operate the switches so as to rotate said gas feed.... Whereas there is support for switches – examiner could find nothing which indicates they participate in the rotation of gas feed. In fact there does not appear to be any support for a rotation of the gas feed.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13- 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claim 18: the “gas feeder” is indefinite as to its meaning. First of all, such is not described/mentioned in the specification and would place an unreasonable burden on the public in determining what it refers back to.

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See Allen Eng'g Corp. V. Bartell Indus. Inc. 299 F.3d 1336, 1348, 63 USPQ2d 1769, 1775 (Fed. Cir. 2002) (quoting Personalized Media Communications, LLC v. Int'l Trade Comm'n, 161 F.3d 696, 705, 48 USPQ2d 1880, 1888 (Fed. Cir. 1998)) ("In determining whether the claim is sufficiently definite, we must analyze whether "one skilled in the art would understand the bounds of the claim when read in light of the specification.") See also, Exxon Research & Eng'g Co. v. United States, 265 F.3d 1371, 1375, 60 USPQ2d 1272, 1276 (Fed. Cir. 2001) (citation omitted) (patent claims must be "sufficiently precise to permit a potential competitor to determine whether or not he is infringing").

More importantly, in the 4th page of the remarks of July 1, 2005 it is stated that a "flow regulator implies a gas feeder. It makes it unclear as to whether applicant's position is that the gas feeder is a regulator, or what. And, as indicated previously it is unclear if such includes the computer and ports.

For claim 13 – it is not understood what is meant by the port being for supplying from one or more respective positions. Since it is one port – it can only supply from one respective position.

Claim 13: it is unclear what is meant by the apparatus being configured to rotate said rotary body. First of all, the specification does not describe the "configuration" – therefore one cannot *easily* determine what is meant by the claim limitation. Secondly, rotation is a method of use limitation – and not structure. So the main issue is whether the claim requires structure which necessarily causes rotation. As per page 10, lines 6-7 indicate that the rotary body can still be fixed. Thus it is unclear as to what sort of

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sometimes rotatable devices will read on the claim – or if the present claim has a scope which excludes that particular embodiment of Applicant's disclosure.

The last paragraph of each independent claim refers to "the gas" – it is unclear if this is the "gas feed" (i.e. there is confusing antecedent basis for "the gas").

Claim 14: there is confusing antecedent basis for "said slit" – claim 17 refers to one or more slits. Thus it is unclear if claim 14 requires exactly one slit – or if all slits are disposed as claimed or what. The same applies to claims 15-16 and 20-21.

It is unclear what is meant by "on/off", i.e. if it means "on or off" or "on and off" or "on to off" or something else. It does not appear that it adds anything to the claim.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the switches and gas feeder of claim 18, as well as each "configured" aspect of claims 13, 18, 23 and 24 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. As indicated in the rejection of the claims, it appears that the "configured" aspect of the claims is directed to structure, rather than mere capable-of-being-rotated/switched/operated (Examiner cannot tell which). To the degree that such imposes structural rotation/operating/switching structure – then such must be shown in the drawings.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The term "gas feeder" lacks antecedent basis in the claims. Since claims are interpreted in light of the specification, one must be able to turn to the specification to determine what is meant by a particular feature. If such is not mentioned in the specification, it places an unreasonable burden on the public in trying to guess what the claim refers to.

Response to Arguments

Applicant's arguments filed 01 July 2005 have been fully considered but they are not persuasive.

The only arguments that appear to still be relevant are those directed to the specification having support for the "gas feeder". The only relevant argument appears to be that the disclosed flow regulator implies a gas feeder. This is not convincing because it is unclear what the gas feeder is. For example, is a tank of gas a feeder? Can a gas tube a gas feeder? Is the regulator a gas feeder? Is the computer and ports part of the feeder?

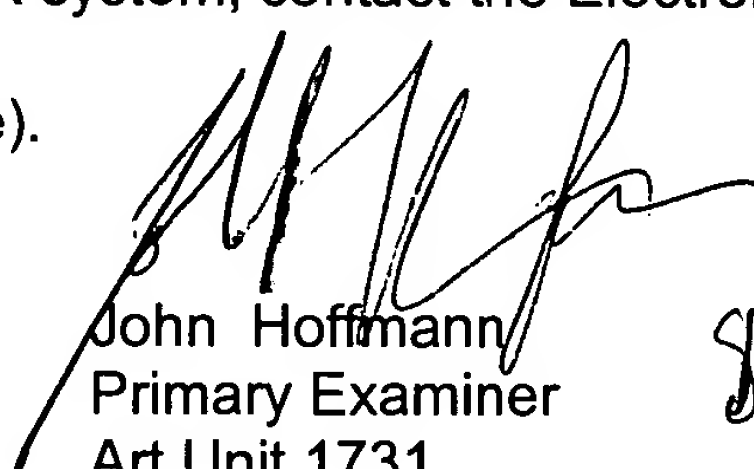
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is (571) 272 1191. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Hoffmann
Primary Examiner
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8-9-05

jmh